

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MELISSA BERGER, individually and on behalf
of her infant children A.G. and M.B.,

19-CV-06229 (JMF)

Plaintiffs,

-against-

ANNA WANG, et al.,

AMENDED
INFANT COMPROMISE
ORDER

Defendants.

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Upon the declaration of Melissa Berger, adult plaintiff herein, signed on May 26, 2020, and the amended declaration of Carolyn A. Kubitschek, attorney for plaintiffs herein, signed on June 8, 2020, and due deliberation having been had thereon, and upon consideration of the issues and claims in the litigation, the proffers of evidence, and the discussions related to settlement in resolution of this case, and it appearing that the best interest of the infant plaintiffs would be served by approval of the proposed compromise in settlement, now, on the motion of Carolyn A. Kubitschek, attorney for infant plaintiff herein, it is hereby:

ORDERED, that the plaintiff, Melissa Berger, is hereby authorized and empowered, in the interest of herself and her children, M.B., born in 2007, and A.G., born in 2014, to settle and compromise all claims against defendants in a total amount of \$250,000.00 (the "Settlement Amount"); and it is further

ORDERED, that defendant Staten Island University Hospital will pay the sum of \$100,000.00 of the Settlement Amount, in full satisfaction of all of plaintiffs' claims against defendant Staten Island University Hospital, including costs,

expenses, attorneys' fees, and interest; and it is further

ORDERED, that upon making and receipt of the payments above directed in compliance with this Order, defendant Staten Island University Hospital shall then be discharged from any and all responsibility as to the causes of action set forth in this action; and it is further

ORDERED, that payment of settlement proceeds, as distributed herein, shall be made by Staten Island University Hospital within thirty days following receipt of a duly executed Settlement Agreement and General Release, and any other such documents required for settlement of this matter; and it is further

ORDERED, that upon entry of a fully executed stipulation of settlement and attendant releases produced and furnished by Plaintiffs, defendant City of New York will pay the sum of \$150,000.00 of the Settlement Amount, in full satisfaction of all of plaintiffs' claims against defendant City of New York, including costs, expenses, attorneys' fees, and interest; and it is further

ORDERED, that, as described in greater detail and in accordance with its letters dated May 13, 2020 and June 3, 2020, annexed together to the Declaration of Carolyn A. Kubitschek as Exhibit 1, sworn to June 8, 2020, the City of New York Human Resources Administration's Department of Social Services agreed not to assert certain liens against the settlement amount; and it is further

ORDERED that plaintiffs' claims against defendants Anna Wang, Anthony Akinduro, Teresa Castelli, Shelly Kirshenbaum, and Dana Kaplan, M.D., are dismissed with prejudice and without costs or disbursements; and it is further

ORDERED that, of the Settlement Amount, the sum of \$14,149.54 is to be

received by Lansner & Kubitschek, as reimbursement for costs and disbursements expended by Lansner & Kubitschek; and it is further

ORDERED, that, of the Settlement Amount, the sum of \$436.00 is to be received by adult plaintiff Melissa Berger as reimbursement for costs and disbursements expended by Melissa Berger; and it is further

ORDERED, that, of the Settlement Amount, the sum of \$52,314.33 is to be received by infant plaintiff M.B., to be deposited into an interest-bearing savings account at a bank selected by adult plaintiff, to be held for M.B., until the event of his 18th birthday; and it is further

ORDERED, that, of the Settlement Amount, the sum of \$52,314.33 is to be received by infant plaintiff A.G., to be deposited into an interest-bearing savings account at a bank selected by adult plaintiff, to be held for A.G., until the event of her 18th birthday; and it is further

ORDERED that, of the Settlement Amount, the sum of \$52,314.33 is to be received by adult plaintiff Melissa Berger; and it is further

ORDERED, that of the Settlement Amount, the sum of \$78,471.47, is to be received by Lansner & Kubitschek, attorneys of record for plaintiffs, for attorney fees¹; and it is further

ORDERED, that in the event of the death of either infant plaintiff prior to the payment dates as set forth above, and in the event that either infant plaintiff

~~The Court finds this award of attorney fees reasonable in light of the time required, the novelty of the issues, the benefits received by the client and the uncertainty of compensation.~~

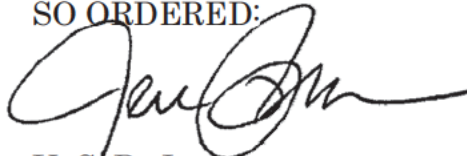
The Court finds the attorney's fees reasonable for the reasons stated in the Order to be entered later today.

has not designated a beneficiary or beneficiaries, payment shall be made to the estate of the deceased infant plaintiff; and it is further

ORDERED, that this Court retains jurisdiction of this action for enforcing or modifying this infant compromise order and for enforcing the terms of the underlying settlement.

Dated: New York, New York
June 17, 2020

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Jesse M. Furman', written over the text 'SO ORDERED:' and 'U. S. D. J.'.

U. S. D. J.

Hon. Jesse M. Furman